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9 **BEFORE THE**
10 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. VN-2003-1139

13 JEAN KENDRICK,
a.k.a. JEAN MARION KENDRICK,
14 a.k.a. JEAN M. KENDRICK
226 Sequoyah View Drive
15 Oakland, California 94605

ACCUSATION

16 Vocational Nurse License No. VN 46457

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

- 21 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this
22 Accusation solely in her official capacity as the Executive Officer of the Board of Vocational
23 Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.
- 24 2. On or about January 1, 1971, the Board issued Vocational Nurse License
25 Number VN 46457 (hereinafter "license") to Jean Kendrick, also known as Jean Marion
26 Kendrick and Jean M. Kendrick ("Respondent"). On December 8, 1976, Respondent's license
27 was revoked; however, the revocation was stayed and Respondent was placed on probation for

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three (3) years on terms and conditions, as more particularly set forth in paragraph 11 below.^{1/}
Respondent's license was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2008, unless renewed.

JURISDICTION

3. Business and Professions Code ("Code") section 2875 provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with Code section 2875) of the Vocational Nursing Practice Act.

4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Pursuant to Code section 2892.1, the Board may renew an expired license at any time within four years after the expiration.

STATUTORY AND REGULATORY PROVISIONS

5. Code section 2878 states, in pertinent part:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, § 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence or gross negligence in carrying out usual nursing functions.

....

(j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee . . .

6. California Code of Regulations, title 16, section ("Regulation") 2519, states:

As set forth in Section 2878 of the Code, gross negligence is deemed unprofessional conduct and is a ground for disciplinary action. As used in Section 2878 'gross negligence' means a substantial departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a

1. Respondent successfully completed her probation on or about December 8, 1979.

1 competent licensed vocational nurse, and which has or could have resulted in
2 harm to the consumer. An exercise of so slight a degree of care as to justify the
3 belief that there was a conscious disregard or indifference for the health, safety, or
welfare of the consumer shall be considered a substantial departure from the
above standard of care.

4 (Cost Recovery)

5 7. Code section 125.3 provides, in pertinent part, that the Board may request
6 the administrative law judge to direct a licensee found to have committed a violation or
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
8 and enforcement of the case.

9 FIRST CAUSE FOR DISCIPLINE

10 (Gross Negligence)

11 8. Respondent is subject to disciplinary action pursuant to Code section
12 2878, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about December
13 31, 2003, while employed as a licensed vocational nurse and on duty as the night charge nurse at
14 Excell Healthcare Center, Oakland, California (hereinafter "facility"), Respondent was guilty of
15 gross negligence within the meaning of Regulation 2519, as follows:

16 **Patient 3:**

17 a. Between approximately midnight and 3:00 a.m. on the date indicated
18 above, Respondent was summoned to Patient 3's room by CNA (certified nursing assistant)
19 V. W. The patient had fallen out of bed and needed assistance. Respondent assisted V. W. in
20 returning the patient to bed, but failed to assess the patient for injuries, failed to notify the
21 patient's physician, family, and facility management regarding the patient's fall, failed to
22 document the incident in the patient's chart and complete an incident report, and failed to
23 monitor the patient to ensure that no other problems were developing.

24 b. On the date indicated above, V. W. asked Respondent about reporting the
25 patient's fall, documenting the incident in the patient's record, and notifying the physician and
26 the patient's family. Respondent told V. W. that she was in charge and "would handle it" and

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1 instructed V. W. not to tell anyone about the incident.^{2/} Over the next few days, Respondent
2 made repeated telephone calls to V. W.'s residence and cellular phone, reminding V. W. not to
3 tell anyone about the patient's fall. Respondent subsequently denied making the telephone calls
4 to V. W.

5 **Patients 1 and 2:**

6 c. Respondent took a capsule from Patient 1's prescription of Restoril 15 mg
7 and administered the capsule to Patient 2, who did not have a physician's order for the
8 medication (Respondent alleges that Patient 2 was agitated and needed to sleep).

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct)**

11 9. Respondent is subject to disciplinary action pursuant to Code section
12 2878, subdivision (a), in that on or about December 31, 2003, while employed as a licensed
13 vocational nurse and on duty as the night charge nurse at Excell Healthcare Center located in
14 Oakland, California, Respondent committed acts constituting unprofessional conduct, as set forth
15 in paragraph 8 above.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Dishonest Acts)**

18 10. Respondent is subject to disciplinary action pursuant to Code section
19 2878, subdivision (j), in that on or about December 31, 2003, while employed as a licensed
20 vocational nurse and on duty as the night charge nurse at Excell Healthcare Center located in
21 Oakland, California, Respondent committed acts involving dishonesty, as set forth in
22 subparagraph 8 (b) above.

23 **MATTERS IN AGGRAVATION**

24 11. On November 8, 1976, pursuant to the Proposed Decision of the
25 Administrative Law Judge adopted by the Board as its Decision in the disciplinary proceeding
26 titled *In the Matter of the Accusation Against Jean M. Kendrick*, Case No. 638, the Board

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28 2. V. W. reported the incident to the oncoming charge nurse on the day shift, who, in turn, reported the
incident to the facility administrator/director of nursing.

revoked Respondent's license effective December 8, 1976. The revocation was stayed and Respondent was placed on probation for three (3) years on terms and conditions. The Administrative Law Judge found that grounds for disciplinary action were established pursuant to Code sections 490 and 2878, subdivision (f), in that Respondent had been convicted of crimes which are substantially related to the qualifications, functions, and duties of a licensed vocational nurse, as follows:

a. On or about June 13, 1973, Respondent was convicted of making or uttering a check, draft, or order with intent to defraud, in violation of Penal Code section 476, subdivision (a), a misdemeanor.

b. On or about August 28, 1974, Respondent was convicted of willfully making a false statement or knowingly failing to disclose a material fact for the purpose of obtaining and increasing unemployment insurance benefits, in violation of Unemployment Insurance Code section 2101, a misdemeanor.

c. On or about May 6, 1975, Respondent was convicted of obtaining welfare aid for a child not entitled thereto by means of false statement or representation, in violation of Welfare and Institutions Code section 11483, a misdemeanor.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse License Number VN 46457,
issued to Jean Kendrick, also known as Jean Marion Kendrick and Jean M. Kendrick;

2. Ordering Jean Kendrick, also known as Jean Marion Kendrick and Jean M. Kendrick, to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable

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1 costs of the investigation and enforcement of this case, pursuant to Business and Professions
2 Code section 125.3;

3 3. Taking such other and further action as deemed necessary and proper.

4 DATED: October 29, 2007

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7 TERESA BELLO-JONES, J.D., M.S.N., R.N.

8 Executive Officer

9 Board of Vocational Nursing and Psychiatric Technicians

10 Department of Consumer Affairs

11 State of California

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Complainant